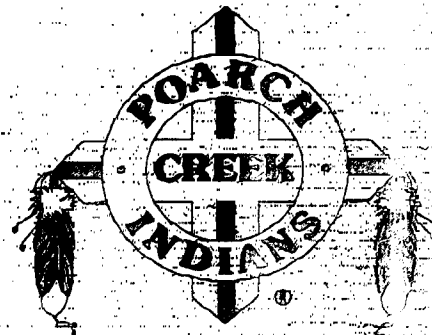


# Poarch Band of Creek Indians

## TRIBAL OFFICES

5811 JACK SPRINGS ROAD  
TELEPHONE: (251) 368-9136

ATMORE, ALABAMA 36502  
FAX: (251) 368-4502



December 15, 2006

Philip N. Hogen, Chairman  
National Indian Gaming Commission  
1441 L Street, NW  
Washington, DC 20005

Re: Game Classification Standards, as revised

Dear Chairman Hogen and Commissioner Choney:

I would like to take this opportunity to comment on the National Indian Gaming Commission's ("NIGC") proposed amendments regarding the classification of games under the Indian Gaming Regulatory Act ("IGRA"), as revised and distributed to the members of the Tribal Advisory Committee earlier this month. While many of the concerns raised in our November 15, 2006 comment remain, two recent modifications merit additional comment.

### The 36-Month Provision of the Proposed "Secretarial Procedures" Exception

The Tribe greatly appreciates the NIGC's recognition of our unique situation and the agency's willingness to accommodate tribes like ours that have been forced to request class III gaming procedures from the Secretary of the Department of the Interior. The ability to continue to operate existing games while pursuing these procedures will do much to alleviate the devastating impacts of being forced to immediately convert to the proposed games.

I would add, however, that we are concerned that this accommodation is being limited to 36 months for two reasons. First, we fully anticipate that once the Secretary of the Interior issues gaming procedures - whether it be for our Tribe or any other - the impacted state will file suit challenging the Secretary's authority to issue such procedures. Past experience indicates that this litigation could take more than 36 months to complete. Second, we are concerned that this limitation eliminates whatever negotiating leverage we may have with the State of Alabama. Very simply, the State has stalled the Tribe's efforts for more than 15 years; the State will not hesitate to stall for another three, which would defeat the accommodation that the NIGC is seeking to make for tribes like ours.

SEEKING PROSPERITY AND SELF-DETERMINATION

The Proposed Role for States in Class II Gaming

Our second concern with the revised regulation is the NIGC's proposal to grant a role for the states in class II gaming. IGRA is very clear on this point. Class II gaming is to be regulated exclusively by the tribes and the NIGC. This proposal not only upsets the balance of IGRA, but also opens the door for the states to seek an even broader role with regard to class II gaming. You can see how problematic such a proposal is for tribes like ours that have had only negative experiences with the state in the area of gaming.

In addition, I would add that should the NIGC decide to move forward with this revision, the Proposed Rules should be republished. Tribes should be provided the opportunity to comment once again on the revised rules, particularly in light of this new role envisioned for the states. Any delay in republishing would be minor and of great benefit given the long-term impact of providing states a role not envisioned in IGRA.

\* \* \*

The Tribe again urges the NIGC to withdraw the Proposed Rules. The courts have provided the appropriate legal contours for the classification of games under IGRA, and it is this framework that should be followed. On behalf of the Poarch Band of Creek Indians, I thank you for the opportunity to provide these comments.

Sincerely,



Buford L. Rohin, Chairman  
Poarch Band of Creek Indians

Attachments

cc: Members of the Senate Committee on Indian Affairs  
Members of the House Resources Committee  
National Indian Gaming Association  
Venus McGhee Prince, General Counsel, Poarch Band of Creek Indians  
Teri Poust, Holland & Knight LLP

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## POARCH CREEK INDIANS

Tribal Offices

5811 Jack Springs Road

Atmore, Alabama 36502

Phone: (251) 368-9136

Fax: (251) 368-1026

## FACSIMILE MESSAGE

Please deliver to the intended recipient as soon as possible.

COMPANY: NIGC

ATTN: Chairman Phil Hogen

FAX#: 202-632-7066

DATE: 12/15/06

FROM:

Chairman Buford  
L. Rolin

TIME: 2:15 a.m./p.m.

NUMBER OF PAGES (including cover page): 3

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